



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/589,109	06/08/2000	Yuusuke Nakano	44239-069	1401

20277 7590 07/07/2003

MCDERMOTT WILL & EMERY  
600 13TH STREET, N.W.  
WASHINGTON, DC 20005-3096

EXAMINER

WU, JINGGE

ART UNIT	PAPER NUMBER
----------	--------------

2623

DATE MAILED: 07/07/2003

6

Please find below and/or attached an Office communication concerning this application or proceeding.

SK

# Office Action Summary

Application No.

09/589,109

Applicant(s)

NAKANO, YUUSUKE

Examiner

Jingge Wu

Art Unit

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 20 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☐ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) 6-9 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1-5, 10 and 11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

Applicant's election without traverse of species I in paper No. 5 is acknowledged. Accordingly, Claims 1-5, 10-11 are now presented for prosecution. Claims 6-9 are withdrawn from consideration.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-2 and 10-11 are rejected under 35 U.S.C. 102(e) as being anticipated by US 5818457 to Murata et al.

As to claim 1, Murata discloses an image processing apparatus comprising:

a landmark amount input unit to input an object image includes in an input image (fig. 1, 9c and 14, 20 and 2, col. 3 lines 12-26);

an image pickup condition input unit to input an image pickup condition of shooting the input image (fig. 14, elements 5, 16-17, col. 14 lines 7-col. 15 line 39, col. 16 lines 7-13);

an image space formation unit to form an image space ( a face image) by applying a statistical fuzzy set method on a plurality of the landmark amounts input and

Art Unit: 2623

image pickup conditions with respect to a plurality of object images (fig. 5-6, 9a-d, 12-14, 17, col. 7 line 2-col. 8 line 31, col. 11-col. 13, col. 16 line 14-col. 17 line 25).

As to claims 10 and 11, Claims 10-11 are the corresponding method and recording medium claims to claim 1. The discussions are addressed with regard to claim1.

As to claim 2, Murata further discloses the landmark amounts includes a plurslity of coordinate values to identify a shape of the object image (fig. 12 and 15, col. 12 lines 2-30).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Murata et al. in view of US 5969721 to Chen et al.

As to claims 3 and 5, Murata does not explicitly mention the texture and depth data.

Chen, in an analogous environment, discloses gray level data of the texture (color data) and depth data (range data or z-axis data) for forming 3D face image (col. 4 lines 19-55).

Art Unit: 2623

It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the scheme of Chen in the method of Murata in order to generate a realistic face image (Chen, col. 1 line 24-col. 2 line 59).

As to claim 4, both Murata and Chen does not mention setting up the brightness of illumination during shooting.

Examiner takes Official Notice that this feature is notoriously well known in the art.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the scheme of setting up illumination in the method of Murata in order to generate a realistic face image.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US 6556196 to Blanz et al., US 5995119 to Cosatto et al., US 5867171 to Murata et al., US 5933527 to Ishikawa, and US 5375195 to Johnston disclose methods for forming facial images.

### **Contact Information**

Art Unit: 2623

Any inquiry concerning this communication or earlier communications should be directed to Jingge Wu whose telephone number is (703) 308-9588. He can normally be reached Monday through Thursday from 8:00 am to 5:30 pm. The examiner can be also reached on second alternate Fridays.

Any inquiry of a general nature or relating to the status of this application should be directed to TC customer service whose telephone number is (703) 306-0377.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Amelia Au, can be reached at (703) 308-6604.

The Working Group Fax number is (703) 872-9314.

Jingge Wu

Primary Patent Examiner

